S.B.CIVIL WRIT PETITION NO.822/2006

Bheem Singh
v.
MACT, Jaisalmer & ors.

Date of Order :: 16th August, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. S.D.Vyas, for the petitioner.

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The respondents No.3 and 4 made a claim of Rs.17,45,000/- as a compensation against the petitioner, respondent United India Insurance Company Ltd. and Shri Jaswant Khan who was driving the vehicle that met with an accident on 29.1.2000 resulting death of Motan Khan the son of claimants. On 28.2.2001 in a "Lok Adalat" organised by Motor Accident Claims Tribunal, Jaisalmer the claimants arrived at an agreement with Insurance Company to accept a sum of Rs.1,20,000/- against compensation and also agreed to delete their claim against other respondents in claim petition. The agreement was placed before learned Motor Accident Claims Tribunal, Jaisalmer and that was confirmed by the award dated 19.4.2002, however, the tribunal while awarding compensation to the claimants, left it open for the Insurance Company to claim liability against the owner of vehicle by moving a separate application. Accordingly, an application under section 151 CPC was preferred by the Insurance

Company that came to be accepted by the tribunal vide order dated 14.7.2005 declaring the Insurance Company entitled to recover the compensation awarded to the claimants from vehicle owner i.e. the petitioner. This petition for writ is preferred to challenge the order aforesaid on the ground that after withdrawing claim against the vehicle owner it was not open for the Insurance Company to get the liability settled against him.

I do not find any merit in the contention so raised. It is true that the claimants arrived at an agreement with the Insurance Company and received a compensation in a tune of Rs.1,20,000/- but the compromise was subject to confirmation by the Motor Accident Claims Tribunal. The tribunal under its award dated 19.4.2002 in most clear terms kept it open for the Insurance Company to get liability of the vehicle owner settled by moving an independent application. What it appears that the Insurance Company only with view to avoid delay in making payment of compensation to the sufferers of the accident, made payment of compensation at its own reserving right to get the liability settled with the vehicle owner. Such a generous and objective attitude of the Insurance Company cannot be taken against its own interest. In view of it the Motor Accident Claims Tribunal, Jaisalmer rightly settled liability of the Motor Vehicle owner for making payment of compensation under

the order dated 14.7.2005 and that does not warrant any interference of this Court under Articles 226 and 227 of the Constitution of India.

The writ petition is dismissed accordingly.

(GOVIND MATHUR),J.

Kkm/ps.